


Status:  Law In Force

Court of Session Act 1988 c. 36

Part II GENERAL POWERS OF THE COURT IN RELATION TO PROCEDURE

This version in force from: **September 1, 2011 to present**

  (version 6 of 6) 

5. Power to regulate procedure etc. by act of sederunt.

The Court shall have power by act of sederunt—

(a) to regulate and prescribe the procedure and practice to be followed in various categories of causes in the Court or in execution or diligence following on such causes, whether originating in the said Court or brought there by way of appeal, removal, remit, stated case, or other like process, and any matters incidental or relating to any such procedure or practice including (but without prejudice to the foregoing generality) the manner in which, the time within which, and the conditions on which any interlocutor of a Lord Ordinary may be submitted to the review of the Inner House, or any application to the Court, or any thing required or authorised to be done in relation to any such causes as aforesaid shall or may be made or done;

(b) to prescribe the form of any summons, defence, petition, answer, writ, pleading, extract of a decree or other document whatsoever to be used in, or for the purposes of, any such causes as aforesaid, or in, or for the purposes of, execution or diligence following on such causes and the manner in which, and the person by whom, any such summons, petition, writ, pleading, extract of a decree or document shall be signed or authenticated;

[
(ba) to make provision as to the quorum for a Division of the Inner House considering solely procedural matters, and, in the case of an extra Division, to make provision as to which judge is to preside and to sign any judgment or interlocutor pronounced by the extra Division;

] ¹

(c) to prescribe the manner in which, the time within which, and the conditions on which any verdict of a jury may be submitted to the review of the Inner House on any ground set out in [section 29](#) of this Act;

(d) to regulate the production and recovery of documents;

[
(da) to regulate the procedure to be followed in proceedings in the Court in connection with the making of orders under [sections 12\(1\)](#) and [\(6\)](#) and [13\(2\)](#) of the [Vulnerable Witnesses \(Scotland\) Act 2004 \(asp 3\)](#) ("the 2004 Act");

(db) to regulate, so far as not regulated by the 2004 Act, the use in any proceedings in the Court of any special measures authorised by virtue of that Act to be used;

] ²

(e) to provide in any category of causes before the Court, for [written statements (including affidavits) and reports, admissible under [section 2\(1\)\(b\)](#) of the [Civil Evidence \(Scotland\) Act 1988](#),

to be received in evidence, on such conditions as may be prescribed, without being spoken to by a witness]³;

[
 (ee) to permit a person who is not an advocate or solicitor and is not represented by an advocate or solicitor to transmit, whether orally or in writing, the views of a child to the Court for the purposes of any enactment which makes provision (however expressed) for the Court to have regard to those views;

] ⁴

[
 (ef) to permit a lay representative, when appearing at a hearing in any category of cause along with a party to the cause, to make oral submissions to the Court on the party's behalf;

] ⁵

(f) to provide for the payment into Court and the investment or application of sums of money awarded in any action of damages in the Court to a pupil or a minor;

[...] ⁶

(h) to regulate the expenses which may be awarded to parties in causes before the Court;

(i) to regulate the summoning, remuneration, and duties of assessors;

(j) to fix the ordinary sessions of the Court and to regulate the days on which and times at which the Court shall sit;

(k) to prescribe the matters with which the vacation judge may deal;

(l) to make such regulations as may be necessary to carry out the provisions of this Act or of any Act conferring powers or imposing duties on the Court or relating to proceedings therein; and

(m) to modify, amend or repeal any provision of any enactment including this Act relating to matters with respect to which an act of sederunt may be made under this Act.

-
1. Added by Judiciary and Courts (Scotland) Act 2008 asp 6 (Scottish Act) [Pt 3 s.46\(3\)](#) (June 1, 2009)
 2. Added by Vulnerable Witnesses (Scotland) Act 2004 asp 3 (Scottish Act) [Pt 2 s.14\(1\)](#) (April 1, 2005 for purposes specified in SSI 2005/168 art.2 and Sch.1 subject to transitional provisions specified in art.4; November 30, 2005 for purposes specified in SSI 2005/590 art.2 and Sch.1 subject to transitional provisions specified in art.4; April 1, 2006 for the purposes specified in SSI 2006/59 art.2 and Sch.1 subject to transitional provisions specified in art.4; November 1, 2007 subject to the saving and transitional provisions specified in SSI 2007/447 art.4 otherwise)
 3. Words substituted by Civil Evidence (Scotland) 1988 c. 32, s. 2(3)
 4. Added by Children (Scotland) Act 1995 c. 36 [Sch.4 para.45](#) (November 1, 1995)
 5. Added by Legal Services (Scotland) Act 2010 asp 16 (Scottish Act) [Pt 4 c.3 s.126\(a\)](#) (September 1, 2011)
 6. Repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 c. 40 [Sch.9 para.](#) (March 1, 1991; December 1, 1990 for repeals specified in SI 1990/2328 art.3 and Sch.1; January 1, 1991 for repeals specified in SI 1990/2624 art.3 and Sch.1; April 1, 1991 for repeals specified in SI 1991/330 art.4 and Sch.1; June 3, 1991 for repeals specified in SI 1991/1252 art.3 and Sch.1; August 15, 1991 for repeals specified in SI 1991/1252 art.4 and Sch.2; August 26, 1991 for repeals specified in SI 1991/1903 art.3 and Sch.1; September 30, 1991 for repeals specified in SI 1991/2151 art.3 and Sch.1; March 17, 1993 for repeals specified in SI 1993/641 art.3 and Sch.1; March 1, 1997 for repeals specified in SI 1996/2894 art.3 and Sch.1; not yet in force otherwise)

Crown Copyright material is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland

Subject: Administration of justice